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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2011-96

12 **JANET V. ORTEGA**
352 E. Hedsing Street
13 San Jose, CA 95112
14 **Registered Nurse License No. RN 539323**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about December 19, 1997, the Board of Registered Nursing issued Registered
22 Nurse License Number RN 539323 to Janet V. Ortega (Respondent). The Registered Nurse
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on November 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
2 that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license.

8 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
9 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
10 disciplinary action during the period within which the license may be renewed, restored, reissued
11 or reinstated.

12 STATUTORY PROVISIONS

13 7. Section 2761 of the Code states:

14 "The board may take disciplinary action against a certified or licensed nurse . . . for any of
15 the following:

16 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

17 ". . . .

18 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
19 functions, and duties of a registered nurse, in which event the record of the conviction shall be
20 conclusive evidence thereof.

21 ". . . ."

22 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
23 revoke a license on the ground that the licensee has been convicted of a crime substantially
24 related to the qualifications, functions, or duties of the business or profession for which the
25 license was issued.

26 9. California Code of Regulations, title 16, section 1444, states:

27 "A conviction or act shall be considered to be substantially related to the qualifications,
28 functions or duties of a registered nurse if to a substantial degree it evidences the present or

1 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
2 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

3 "....

4 "(c) Theft, dishonesty, fraud, or deceit.

5 "...."

6 COST RECOVERY

7 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 FIRST CAUSE FOR DISCIPLINE

12 (Criminal Conviction)

13 11. Respondent is subject to disciplinary action under §§ 2761(a), 2761(f), and 490 of the
14 Code in that on or about May 9, 2007, in a case entitled United States of America v. Janet V.
15 Ortega, Case Number CR-06-00744-001 WHA, in the United States District Court for the
16 Northern District of California, the Respondent pleaded guilty to and was convicted of violating
17 Section 1341 of Title 18 of the United States Code (felony mail fraud). The Respondent was
18 sentenced to serve 4 months in a Community Corrections Center, to serve 4 months of home
19 confinement, to serve 3 years of probation with specific conditions, and to pay restitution of
20 \$64,000.

21 12. The circumstances of the conviction were that between April of 2003 and February of
22 2004, the Respondent worked as a contract nurse for the medical unit at the United States Postal
23 Service's Processing and Distribution Center (Center) in San Francisco, California. As part of a
24 scheme to defraud, Respondent created fictitious invoices for services allegedly performed for the
25 Center by a "Dr. John De Leon." No such doctor worked at the Center. Respondent then
26 submitted the invoices to the United States Postal Service for payment, arranging to have the
27 payments sent to a post office box that Respondent controlled. When the checks would arrive,
28 the Respondent forged the name of "Dr. John De Leon" and deposited them into a bank account

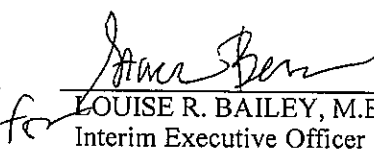
1 Respondent controlled. Overall, Respondent submitted approximately 37 such invoices for a total
2 of about \$64,000.00.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

- 6 1. Revoking or suspending Registered Nurse License Number RN 539323, issued to
7 Janet V. Ortega;
- 8 2. Ordering Janet V. Ortega to pay the Board of Registered Nursing the reasonable costs
9 of the investigation and enforcement of this case, pursuant to Business and Professions Code
10 section 125.3;
- 11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 8/16/10

13 *for* 
14 LOUISE R. BAILEY, M.ED., RN
15 Interim Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

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21 accusation.rtf
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